

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

**In re:
BENNETTA DORIS SMITH
Debtors**

Cause No. 09-45434

Chapter 13

**CAPITAL ONE AUTO FINANCE
DEPARTMENT
Respondent**

**Motion To Trade Motor Vehicle Free
and Clear of Liens
Motion # _____**

Hearing Date: September 26, 2013

Hearing Time: 11:00 a.m.

Location: Courtroom 7 North

**DEBTOR'S MOTION TO ORDER CAPITAL ONE TO RELEASE LIEN AND
SURRENDER TITLE OF MOTOR VEHICLE TO DEBTOR AND TO GRANT
DEBTOR PERMISSION TO TRADE CAR TO PURCHASE A MOTOR
VEHICLE FREE AND CLEAR OF LIENS**

Comes now the debtor and states:

1. Debtor and her spouse jointly own a motor vehicle, a 2007 Avalon, which is a part of debtor's estate.
2. Said motor vehicle secured a claim by Capital One Auto Finance that was filed against debtor's bankruptcy estate.
3. Said claim was fully paid for through debtor's Chapter 13 plan.
4. The lienholder has not as of date released the lien on said vehicle and delivered the tile free and clear of liens to debtor.
5. Debtor's spouse wishes to purchase a new motor vehicle and to use the 2007 Avalon or motor vehicle that is jointly owned by the debtor and her spouse as a trade in for debtor's spouse to purchase said substitute motor vehicle.
6. Debtor will incur no new debt in this transaction.


7. Said 2007 Avalon is in need of substantial repairs and the trading of same is of less economic consequences to the debtor than the repair thereof.

WHEREFORE, Debtor moves this Honorable court to:

1. Order Capitol One Auto Finance, the lienholder of record, to release the lien and surrender the title to said motor vehicle to debtor.

2. Grant debtor's permission to transfer her interest in the subject motor vehicle, a 2007 Avalon, to her husband or to her husband's designee, free and clear of liens, so that said motor vehicle may be traded as a part of her husband's purchase of a new and substitute motor vehicle for said 2007 Avalon, and to Order the lienholder of record to release the lien and surrender the title to said motor vehicle to debtor.

METRO LAW FIRM, LLC.

By: 
Elbert A. Walton, Jr.
Mo Bar #24547
U.S. District Ct Bar #5481
Attorney for Debtor
2320 Chambers Rd.
St. Louis, MO 63136
Telephone: (314) 388-3400
Fax: (314) 388-1325
E-mail address: waltonctmail@charter.net; elbertajrq@charter.net
Client Code: _____

CERTIFICATE OF SERVICE: By signature below, I hereby certify that on August 21, 2013:

the foregoing was filed electronically with the Clerk of Court to be served by operation of the Court's electronic filing system upon the following:

John V La Barge Trustee
Capital One Auto Finance Department

By: 